

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:02-CR-265-BO

UNITED STATES OF AMERICA )  
)  
)  
v. )  
)  
DAMIEN DEVAUGHN MCCULLERS )

## ORDER

This cause comes before the Court on a letter from defendant, Damien McCullers, regarding an order of forfeiture that he contends was entered in absentia and without his knowledge. [DE 39]. Defendant asks for the Court's assistance in resolving the issue, and further requests that the Court take into consideration his current status as an inmate in the Federal Bureau of Prisons and the hardship associated with it.

The government responded to defendant's letter. [DE 41]. The Court then provided notice to defendant of its intent to construe his letter as a motion pursuant to 28 U.S.C. § 2255. *See Castro v. United States*, 540 U.S. 375, 377 (2003). The Court further ordered that if defendant does not wish his letter to be construed as a § 2255 motion, he must so notify the Court and withdraw or sufficiently amend his letter.

Defendant has responded to the Court's notice of intent to construe and has stated that he did not intend to file a motion for relief under 28 U.S.C. § 2255. [DE 44]. Defendant continues to request, however, that the Court revisit and reconsider its order of forfeiture. The Court is without any legal basis to do so absent a successful motion to vacate, set aside, or correct sentence. Defendant's motion [DE 39] is therefore DENIED.

SO ORDERED, this 26 day of May, 2015.

Terrence W. Boyle  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE